

**FIRST AMENDED DEVELOPMENT ORDER
FALLSCHASE DEVELOPMENT OF REGIONAL IMPACT**

WHEREAS, on November 27, 1973, pursuant to Ordinance No. 73-64, the Leon County Board of County Commissioners ("Board") rezoned the property now constituting the Fallschase Development of Regional Impact ("DRI") to Planned Unit Development ("PUD"). Also, on February 12, 1974, the Board approved the Fallschase DRI Application for Development Approval by its Resolution.

WHEREAS, E. Lamar Bailey as the authorized agent for all property owners in the DRI seeks to amend the existing boundaries of the approved Fallschase Development of Regional Impact ("DRI") through its Notification of a Proposed Change to a Previously Approved Development of Regional Impact ("Notification"); and

WHEREAS, the Notification of the proposed change to amend the existing DRI boundaries was provided to the Apalachee Regional Planning Council, the Department of Community Affairs and Leon County, in accordance with the requirements of Chapter 380, Fla. Stat.

NOW, THEREFORE, IT IS HEREBY ORDERED AND RESOLVED by the Board of County Commissioners of Leon County, Florida, that the First Amendment to the Fallschase Development of Regional Impact amending the boundaries of the DRI to both incorporate additional lands and delete one parcel is approved pursuant to Section 380.06(19), Fla. Stat., subject to the following terms and conditions.

I. FINDINGS OF FACT

- A. The Developer of the property is E. Lamar Bailey as agent for the Fallschase Land Company and all other property owners in the DRI.
- B. The authorized agent for the developer filed the Notification of a Proposed Change to a Previously Approved Development of Regional Impact pursuant to Section 380.06(19), Fla. Stat., for amendment of the boundaries of the DRI with the Apalachee Regional Planning Council, the Department of Community Affairs and Leon County on March 23, 2005, for the real property located in Leon County, Florida, which is more particularly described in Exhibit 1 attached to and by this reference incorporated in the Order and hereafter referred to as the "Properties." Revisions to the Notice of Proposed Change were received on June 28, 2005, and are incorporated into Exhibit 1.
- C. The Properties do not lie within an Area of Critical State Concern.
- D. The Notification has been reviewed by the Apalachee Regional Planning Council as the regional planning agency.

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- E. The Notification has been reviewed by and recommendations received from the Department of Community Affairs as the state land planning agency.
- F. The public hearing as required by Section 380.06, Fla. Stat., has been duly noticed and conducted.
- G. The overall Fallschase Development now consists of approximately 700± acres. The maximum development permitted in the Fallschase Development Order and Planned Unit Development approval both dated February 12, 1974 is not modified. Only the project acreage is increased.

II. CONCLUSIONS OF LAW

- A. Leon County Ordinance No. 73-64 and the County's Resolution of February 12, 1974, approving the Fallschase PUD and DRI, respectively, are hereby incorporated by reference into this First Amended Development Order.
- B. The expansion and contraction of the boundaries of the Fallschase DRI addressed by this First Amended Development Order are consistent with the achievement of the objectives of the State Comprehensive Plan and the State Land Development Plan.
- C. The expansion and contraction of the boundaries of the Fallschase DRI addressed by this First Amended Development Order and as shown on Exhibit 2.0, are consistent with the Leon County 2010 Comprehensive Plan and its adopted land development regulations.
- D. The expansion and contraction of the boundaries of the DRI addressed by this First Amended Development Order and shown on Exhibit 2.0 are consistent with the report of the Apalachee Regional Planning Council. Therefore, such changes to the plan of development are hereby approved subject to the following conditions of approval.

III. CONDITIONS OF APPROVAL

A. General Conditions.

1. This First Amended Development Order applies to those Properties added pursuant to the Notice of Proposed Change filed with Leon County on March 23, 2005, and as modified on June 28, 2005 and shall be binding upon the Developer, its assigns or successors in interest including any entity that may assume any of the responsibilities imposed on the Developer by this First Amended Development Order.
2. The DRI shall be developed in accordance with the information, data, plans and commitments contained in the Notification incorporated herein by reference and, to the extent not superseded by the Notification, all other information, data, plans and commitments contained in the original Fallschase

Application for Development Approval approved pursuant to its Resolution by the Board of County Commissioners of Leon County, Florida, on February 12, 1974. Furthermore, those properties added to the boundaries of the Fallschase DRI pursuant to this First Amended Development Order shall comply with the Leon County Comprehensive Plan, the Environmental Management Act adopted thereunder and all applicable County stormwater management and other land development regulations as such may be amended.

3. The developer acknowledges that they have a pending dispute with the County regarding the application of current County land development regulations to the approved DRI and agrees that nothing herein is intended or shall operate as a waiver of the County's and Developer's position with regard to the applicability of the County's Environmental Management Act or other development regulations.

B. Archaeological.

4. In the event of discovery of artifacts of historical or archaeological significance during construction on the Properties added pursuant to the Notice of Proposed Change and this First Amended Development Order, construction at the site of discovery shall cease until the Division of Historic Resources is notified. Further, development of the Properties added shall comply with all applicable requirements of the Environmental Management Act with respect to the protection of cultural resources.

C. Vegetation and Wetlands.

5. Protection of natural upland plant communities within the Properties added pursuant to the Notice of Proposed Change and this First Amended Development Order shall be in conformance with the Environmental Management Act.

6. Except where otherwise agreed, protection of on-site wetland systems, upland buffers and other conservation areas within the Properties added pursuant to the Notice of Proposed change and this First Amended Development Order shall comply with the Environmental Management Act.

D. Floodplain Protection.

7. There shall be an upland development line established on the Properties added pursuant to the Notice of Proposed Change and this First Amended Development Order along the 51 foot contour line (100 year floodplain) as identified in Exhibit #3, except where development is otherwise approved by Leon County.

E. Stormwater Management.

8. The proposed stormwater management system for the Properties added pursuant to the Notice of Proposed Change and this First Amended Development Order shall meet all applicable requirements of the Department of Environmental Protection and of Leon County.

9. The Developer or the Fallschase Community Development District shall establish and implement an inspection and maintenance program for all components of the surface water management system serving the Properties.

F. Transportation.

The Fallschase DRI is vested from compliance with the Leon County Concurrency Management System for the density and intensity of development approved by Leon County in the Fallschase Development Order and PUD approval, both dated February 12, 1974.

IV. PERIOD OF EFFECTIVENESS

- A. This First Amended Development Order and any subsequent amendment, shall be effective on the date it is transmitted by the County to the Developer, the owner of the Property, the Florida Department of Community Affairs and the Apalachee Regional Planning Council. The date of transmission is also "rendition" under Rule 9J2-2.025(5), F.A.C. Under Section 380.07, Florida Statutes, an appeal may be taken within 45 days after rendition.
- B. The right to develop the Properties added pursuant to the Notice of Proposed Change and this First Amended Development Order and subject to the terms, general provisions, and conditions of the First Amended Development Order shall terminate twenty (20) years from the effective date of this Order. In the event the Developer fails to have substantially proceeded with development of the Properties approved herein in the First Amended Development Order within seven (7) years of the effective date of the Order, then development approval shall terminate. The above time limitations may be extended on the County's finding of excusable delay, and that no adverse impacts result from the delay, consistent with the substantial deviation provision of subsection 380.06(19), Florida Statutes. The termination of development rights for the Properties added pursuant to the First Amended Development Order shall not affect the continuing obligations of the Developer nor the enforcement authority of the Florida Department of Community Affairs or Leon County, and the Developer shall continue to be bound by the terms, general provisions, and conditions of the First Amended Development Order.

V. MONITORING PROCEDURES

- A. The County or appropriate local government shall be responsible for enforcing the provisions of this First Amended Development Order.
- B. The Development's compliance with the terms and conditions of this First Amended Development Order for those Properties added pursuant to the Notice of Proposed Change and this First Amended Development Order shall be monitored through the provisions of the established review and approval process for developments pursuant to the County monitoring procedures. The Tallahassee-Leon County Planning Director and the Leon County Growth Management Director, or their authorized designee, shall be the official responsible for monitoring compliance by the Developer with this First Amended Development Order.

VI. RESTRICTIONS ON DOWN ZONING

- A. Development of the Properties added pursuant to the Notice of Proposed change and this First Amended Development Order will not be subject to down zoning, unit density reduction or intensity reduction for a period of twenty (20) years from the effective date of this First Amended Development Order unless it is demonstrated that substantial changes in the conditions underlying the approval of this First Amended Development Order have occurred, or that this First Amended Development Order was based on substantially inaccurate information provided by the Developer.

VII. MODIFICATIONS TO THE DEVELOPMENT ORDER

- A. The Developer shall submit, simultaneously, to the County, the Apalachee Regional Planning Council and the Florida Department of Community Affairs (DCA) any requests for approval of a proposed change to this First Amended Development Order. This submission shall be in a format established by the DCA and shall include as a minimum the precise language which is proposed for deletion or addition to the Development Order and a statement summarizing all previous changes that have been made to the Development Order by that date.

VIII. MODIFICATION TO APPROVED RESIDENTIAL DWELLING UNIT TYPE

The mix of residential dwelling unit development type may be revised from that previously approved by Leon County if the Developer can demonstrate through the following procedures that the cumulative traffic impacts of the revised development program will result in no additional adverse impacts on the concurrency roadway network, the regional roadway network or at project access points or access driveways.

A proposed conversion will require a traffic analysis to be approved by Leon County subsequent to review and comment by the agencies referred to below. The traffic study shall include the following:

- A. A table showing trip generation, pass-by and internal capture for the entire Fallschase DRI as currently approved in the DRI Development Order.
- B. A table showing trip generation, pass-by and internal capture for the entire Fallschase DRI as proposed in the conversion.

In addition to the above, unless the proposed change will clearly not increase the number of project trips and will clearly not significantly alter the project trip distribution pattern, the traffic study shall also include the following:

- A. Trip assignment maps (and corresponding tables) for the entire Fallschase DRI as currently approved in the DRI Development Order.
- B. Trip assignment maps (and corresponding tables) for the entire Fallschase DRI project as proposed.

The required traffic analysis shall be submitted to the Leon County Growth Management Department prior to, or simultaneous with the submittal of the project site plan. At the same time, the traffic analysis shall be submitted by the Developer to the ARPC, FDOT, DCA, and the City of Tallahassee Growth Management Department. These agencies shall have a 30-day review period to provide comments regarding the traffic analysis to the County. From the date of initial receipt of the traffic analysis, the County shall have no more than 35 days to respond in writing to the Developer to issue a sufficiency letter requesting additional information, or to approve or reject the analysis. Any data or information that the County uses or generates in order to determine the availability of roadway capacity for a proposed conversion shall be transmitted to the review agencies upon request.

The filing of a Notice of Proposed Change pursuant to Section 380.06(19), F.S. will be required should the traffic analysis indicate that the proposed change will result in a significant adverse transportation impact.

IX. BIENNIAL REPORT REQUIREMENTS

- A. The Developer shall submit a biennial report for the Properties, on or before the anniversary date of this Order, on every other calendar year for the life of the Development Order. In the event that the Properties are sold to one or more other parties for development purposes, then the Developer will contractually require that such parties assume the responsibility for seeing that the biennial report is timely submitted. Each biennial report will be submitted to the County, the Apalachee Regional Planning Council ("Apalachee"), the Florida Department of Community Affairs (DCA), and all affected permit agencies. The report shall include any information specifically required to be included by the conditions of the Development Order, as well as the information enumerated below, and shall be presented in a format specified by the DCA. The report

to the County shall also include a statement that all persons/agencies listed above have been sent copies of the Annual Report.

The report shall address the following:

1. Changes in the plan of development for the Properties.
2. A Development Summary, in the format below, of development activity proposed and actually conducted for the two years addressed by the Biennial Report.
3. Identification of undeveloped tracts of land within the Properties other than individual single family lots that have been sold to a separate entity or Developer.
4. Identification and intended use of lands purchased, leased or optioned by the Developer adjacent to the original DRI site since this Development Order was issued.
5. Any known incremental development of regional impact ("DRI") applications for development approval or requests for a substantial deviation determination that were filed during the reporting year, or to be filed during the next year.
6. An assessment of the Developer's and Leon County's compliance with each condition of approval contained in this First Amended Developer Order.
7. An indication of a change, if any, in local government jurisdiction for any portion of the Properties since the First Amended Development Order was issued.
8. A list of significant local, state and federal permits which have been obtained for the Properties or which are pending by agency, type of permit, permit number and purpose of each.
9. A statement that all person/entities have been sent copies of the Biennial Report in conformance with subsections 380.06(15) and (18), Florida Statutes.
10. A copy of any notice of the adoption of a Development Order or the subsequent modification of an adopted Development Order that was recorded by the Applicant pursuant to subsection 380.06(15)(f), Florida Statutes.
11. A map of overall project development at the same scale as the master plan submitted in the original ADA. Graphically depicted on the map shall be, a) the boundaries of all development approved during the reporting period, b) past years and c) development expected to be approved in the coming year. Within each

boundary shall be the local approval number and the amount of development approved; i.e. square footage, dwelling units, etc.

12. The Development Summary Table shall be completed each reporting period to summarize development activity and to project anticipated activity for the coming year.

13. The final annual report shall include a statement indicating that all development on the Properties authorized by the Development Order has been completed or that no further development is desired and that all conditions of approval have been satisfied.

- B. If Leon County does not receive the biennial report for the Properties or receives notification that Apalachee, the DCA or any affected permit agency has not received the report, then Leon County shall request in writing that the Developer submit the report within thirty days.

X. RECORDING

Within ten days of the issuance of this First Amended Development Order, the Developer shall cause a notice of the adoption of the Order and any subsequent modification of the Order to be recorded, at the Developer's expense, with the clerk of the circuit court of Leon County pursuant to Section 380.061(19), Fla. Stat. This notice shall meet the requirements of Section 380.06(15)(f), Fla. Stat. The recording of this notice shall not constitute a lien, cloud, or encumbrance on the Property, or actual or constructive notice of any such lien, cloud or encumbrance.

BOARD OF COUNTY COMMISSIONERS
OF LEON COUNTY, FLORIDA

BY: _____
_____, Chairman

County Administrator and Clerk of the Board of
County Commissioners

STATE OF FLORIDA
COUNTY OF LEON, ss:

On this day before me, a Notary Public duly authorized in the state and County aforesaid to take oaths and acknowledgments, personally appeared _____ and _____, respectively as Chairman and Clerk of the Board of County Commissioners of Leon County, Florida who (a) the undersigned personally knows, and (b) acknowledged executing the foregoing instrument. No oath was taken.

Dated this _____ day of _____, 2005.

Signature of person taking acknowledgment

Name of acknowledgment typed, printed or stamped

Title or rank

Serial number, if any

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